

APPEAL,CLOSED,CONSOL,PROSE-NP,TYPE-F

U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:23-cv-01346-DLF
Internal Use Only

KELLEHER v. REGAN

Assigned to: Judge Dabney L. Friedrich

Demand: \$3,500,000,000

Member case:

1:23-cv-02756-DLF

Related Case: 1:23-cv-02756-DLF

Cause: 42:7413(b) Clean Air Act

Date Filed: 05/08/2023

Date Terminated: 09/26/2024

Jury Demand: None

Nature of Suit: 890 Other Statutory
Actions

Jurisdiction: U.S. Government Defendant

Plaintiff**BRIAN T. KELLEHER**represented by **BRIAN T. KELLEHER**4618 Thorntree Court
Stockton, CA 95210
PRO SE

V.

Defendant**MICHAEL REGAN***in his official capacity of administrator*represented by **Elliot Higgins**U.S. DEPARTMENT OF JUSTICE
150 M Street, NE
Ste 4.331
Washington, DC 20002
(202) 598-0240
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
05/08/2023	<u>1</u>	COMPLAINT against MICHAEL REGAN (Filing fee \$ 402, receipt number 204668) filed by BRIAN T. KELLEHER. (Attachments: # <u>1</u> Exhibits, # <u>2</u> Statement of Facts, # <u>3</u> Civil Cover Sheet)(zed) (Entered: 05/16/2023)
05/08/2023		SUMMONS (3) Issued as to MICHAEL REGAN, U.S. Attorney and U.S. Attorney General (znmw) (Entered: 06/20/2023)
05/18/2023	<u>2</u>	STANDARD ORDER for civil cases. See text for details. Signed by Judge Dabney L. Friedrich on May 18, 2023. (lcldf2) (Entered: 05/18/2023)
07/18/2023		MINUTE ORDER. The plaintiff filed the Complaint in this action on May 8, 2023. As of the date of this order, the public docket reflects that the plaintiff has yet to file proof of service of the defendant. The Court directs the plaintiff's attention to Federal Rule

		of Civil Procedure 4(m), which provides in pertinent part that if a defendant is not served within 90 days after the complaint is filed, the court, on motion or on its own after notice to the plaintiff, must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. Fed. R. Civ. P. 4(m). Unless service is waived, proof of service must be made to the court. Fed. R. Civ. P. 4(1)(1). To avoid the finality of a mandatory dismissal of this action against the defendant, it is ORDERED that the plaintiff must, on or before August 6, 2023, either cause process to be served upon the defendant and proof of service to be filed with the Court or establish good cause for the failure to do so. The failure to make such filings will result in dismissal of this case. <u>The Clerk of Court is directed to mail a copy of this minute order to the plaintiff.</u> So Ordered by Judge Dabney L. Friedrich on July 18, 2023. (lcldf2) (Entered: 07/18/2023)
07/27/2023	<u>3</u>	MOTION for Approval of Proof of Service by BRIAN T. KELLEHER. (mg) (Entered: 07/28/2023)
07/27/2023	<u>4</u>	MOTION to Amend <u>1</u> Complaint and Exhibits by BRIAN T. KELLEHER. (Attachments: # <u>1</u> Exhibits)(mg) (Entered: 07/28/2023)
07/27/2023	<u>5</u>	MOTION for Summary Judgment by BRIAN T. KELLEHER. (Attachments: # <u>1</u> Exhibits)(mg) (Entered: 07/28/2023)
08/15/2023	<u>6</u>	NOTICE of Appearance by Elliot Higgins on behalf of MICHAEL REGAN (Higgins, Elliot) (Entered: 08/15/2023)
08/15/2023	<u>7</u>	Unopposed MOTION for Extension of Time to <i>File Response to Complaint</i> by MICHAEL REGAN. (Attachments: # <u>1</u> Proposed Order)(Higgins, Elliot) (Entered: 08/15/2023)
08/21/2023		MINUTE ORDER. The plaintiff has moved to amend the complaint. <i>See</i> Dkt. 4. The Court construes the plaintiff's motion as a motion for leave to amend and will exercise its discretion to allow the plaintiff to amend the complaint. <i>See</i> Fed. R. Civ. P. 15(a)(2). It is thus ORDERED that the plaintiff's <u>4</u> Motion to Amend is GRANTED. The Clerk of Court is directed to docket the [4-1] Complaint as the plaintiff's Amended Complaint. So Ordered by Judge Dabney L. Friedrich on August 21, 2023. (lcldf2) (Entered: 08/21/2023)
08/21/2023	<u>8</u>	ORDER dismissing the plaintiff's [4-1] Amended Complaint; denying the plaintiff's <u>3</u> Motion for Approval of Proof of Service and <u>5</u> Motion for Summary Judgment; and denying the defendant's <u>7</u> Motion for Extension of Time. <i>See</i> text for details. The Clerk of Court is directed to mail a copy of this Order to the plaintiff's address of record. Signed by Judge Dabney L. Friedrich on August 21, 2023. (lcldf2) (Entered: 08/21/2023)
08/21/2023	<u>9</u>	AMENDED COMPLAINT against MICHAEL REGAN filed by BRIAN T. KELLEHER.(zed) (Entered: 08/24/2023)
09/26/2023	<u>10</u>	NOTICE OF RELATED CASE by All Defendants. Case related to Case No. 23-cv-2756. (Higgins, Elliot) (Entered: 09/26/2023)
10/23/2023	<u>11</u>	SECOND AMENDED COMPLAINT against MICHAEL REGAN filed by BRIAN T. KELLEHER.(mg) (Entered: 10/24/2023)
10/23/2023		Cases Consolidated: The following case has been consolidated with this case: 23cv2756, pursuant to 10/23/2023 Minute Order filed in 23cv2756. From this date

		forward, all pleadings shall be filed ONLY in this case. Parties are advised NOT to elect the SPREAD TEXT option when filing in ECF, as this will result in repetitive docketing. (mg) Modified docket text on 11/17/2023 (znmw). (Entered: 10/24/2023)
10/26/2023	<u>12</u>	Unopposed MOTION for Extension of Time to File Answer by MICHAEL REGAN. (Attachments: # <u>1</u> Text of Proposed Order)(Higgins, Elliot) (Entered: 10/26/2023)
10/26/2023		MINUTE ORDER granting the defendant's <u>12</u> Unopposed Motion for Extension of Time to File Response to Second Amended Complaint. The defendant shall file its answer or otherwise respond to the second amended complaint on or before January 5, 2024. So Ordered by Judge Dabney L. Friedrich on October 26, 2023. (lcldf2) (Entered: 10/26/2023)
11/06/2023	<u>13</u>	MOTION to Amend/Correct by BRIAN T. KELLEHER. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit A–D, # <u>4</u> Exhibit E–K, # <u>5</u> Exhibit)(mg) (Entered: 11/17/2023)
11/15/2023	<u>14</u>	MOTION to Meet and Confer by BRIAN T. KELLEHER. (mg) (Entered: 11/17/2023)
11/15/2023	<u>15</u>	MOTION for CM/ECF Password by BRIAN T. KELLEHER. (Attachments: # <u>1</u> Exhibit)(mg) (Entered: 11/17/2023)
11/15/2023	<u>16</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. MICHAEL REGAN served on 10/16/2023, RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 10/16/2023., RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 10/16/2023. (Answer due for ALL FEDERAL DEFENDANTS by 12/15/2023.) (mg) (Entered: 11/17/2023)
11/15/2023	<u>17</u>	MOTION to Amend/Correct by MICHAEL REGAN. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit)(mg) (Entered: 11/17/2023)
11/27/2023	<u>18</u>	ORDER. On the 23–cv–1346 docket, the plaintiff's <u>11</u> Second Amended Complaint is DISMISSED, and the plaintiff's <u>13</u> Motion to Amend/Correct, <u>14</u> Motion to Meet and Confer, <u>15</u> Motion for CM/ECF Password, and <u>17</u> Motion to Amend/Correct are DENIED. On the 23–cv–2756 docket, the plaintiff's <u>1</u> Second Amended Complaint is DISMISSED, and the plaintiff's <u>5</u> Motion to Amend/Correct and <u>6</u> Motion to Meet and Confer are DENIED. See text for details. The Clerk of Court is directed to mail a copy of this Order to the plaintiff's address of record. The plaintiff shall file any amended complaint on or before December 27, 2023, or this case will be dismissed. Signed by Judge Dabney L. Friedrich on November 27, 2023. (lcldf2) (Entered: 11/27/2023)
11/27/2023	<u>19</u>	MOTION to Compel by BRIAN T. KELLEHER. (Attachments: # <u>1</u> Exhibit)(mg) (Entered: 11/30/2023)
11/27/2023	<u>20</u>	MOTION to Amend/Correct by BRIAN T. KELLEHER. (Attachments: # <u>1</u> Exhibit)(mg) (Entered: 11/30/2023)
11/27/2023	<u>21</u>	MOTION to Compel by BRIAN T. KELLEHER. (mg) (Entered: 11/30/2023)
11/27/2023	<u>22</u>	MOTION for Order to Show Cause by BRIAN T. KELLEHER. (Attachments: # <u>1</u> Exhibit)(mg) (Entered: 11/30/2023)
11/27/2023	<u>23</u>	MOTION for Preliminary Injunction by BRIAN T. KELLEHER. (Attachments: # <u>1</u> Exhibit)(mg) (Entered: 11/30/2023)
11/30/2023		

MINUTE ORDER. Before the Court are the plaintiff's 19 Motion to Compel Defendant to Accept Data, 20 Motion to Add Data on Rising GHG Levels, 21 Motion to Compel Compliance, 22 Motion for Order to Show Cause, and 23 Motion for Preliminary Injunction. The motions are DENIED as meritless.

First, on November 27, 2023, the Court dismissed the plaintiff's 11 Second Amended Complaint under Rules 8 and 12 of the Federal Rules of Civil Procedure. *See* Order of Nov. 27, 2023, Dkt. 18. The plaintiff has not filed a Third Amended Complaint, and there is thus no operative complaint to amend. As such, the plaintiff's 20 Motion to Add Data on Rising GHG Levels, 21 Motion to Compel Compliance, and 22 Motion for Order to Show Cause are not ripe as they effectively seek to add allegations and enlarge the scope of requested relief. Further, and in any event, the motions, construed as proposed amendments, fail to cure the Second Amended Complaint's defects under Rules 8 and 12, as previously identified in the Court's November 27, 2023 order.

Second, the plaintiff's 19 Motion to Compel Defendant to Accept Data fails to comply with Rule 37 of the Federal Rules of Civil Procedure. Further, to the extent the plaintiff is pursuing a new "claim for relief" related to the enforcement of the EPA 1998 Peer Review Handbook, his filing lacks "a short and plain statement of the grounds for the court's jurisdiction" and "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(1)&(2). In addition, and as previously stated, any such proposed amendment is unripe.

Third, the plaintiff's 23 Motion for Preliminary Injunction is without merit. A preliminary injunction is "an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Sherley v. Sebelius*, 644 F.3d 388, 392 (D.C. Cir. 2011) (quoting *Winter v. NRDC*, 555 U.S. 7, 22 (2008)). To prevail, a party seeking preliminary relief must make a "clear showing that four factors, taken together, warrant relief: likely success on the merits, likely irreparable harm in the absence of preliminary relief, a balance of the equities in its favor, and accord with the public interest." *League of Women Voters of U.S. v. Newby*, 838 F.3d 1, 6 (D.C. Cir. 2016) (cleaned up). The plaintiff "bear[s] the burdens of production and persuasion." *Qualls v. Rumsfeld*, 357 F. Supp. 2d 274, 281 (D.D.C. 2005) (citing *Cobell v. Norton*, 391 F.3d 251, 258 (D.C. Cir. 2004)). The plaintiff has not satisfied the exacting requirements for a preliminary injunction. To start, he has not established likelihood of success on the merits. The motion is difficult to follow and makes only vague and unsubstantiated allegations of "brazen illegal actions" by "a highly coordinated, well-funded Marxist attack by progressive-left federal employees." Mot. at 1–2. Further, the plaintiff has not advanced any claim of irreparable harm warranting preliminary relief besides a vague allegation of "urgency" to his motion. *Id.* at 1. In addition, the balance of the equities and the public interest militate against entering a preliminary injunction against a federal agency based on a "rambling, disjointed, incoherent" motion. *Jiggetts v. District of Columbia*, 319 F.R.D. 408, 413 (D.D.C. 2017) (quoting *T.M. v. District of Columbia*, 961 F. Supp. 2d 169, 174 (D.D.C. 2013)), *aff'd sub nom. Cooper v. District of Columbia*, No. 17-7021, 2017 WL 5664737 (D.C. Cir. Nov. 1, 2017) (internal quotation marks omitted).

Finally, the Court reminds Mr. Kelleher that "like any other party, a *pro se* plaintiff must comply with the Federal Rules of Civil Procedure." *Lamb v. Millennium Challenge Corp.*, 228 F. Supp. 3d 28, 40 (D.D.C. 2017). The plaintiff is directed to review Rule 11 of the Federal Rules of Civil Procedure, which requires that an "unrepresented party certifies . . . the claims, defenses, and other legal contentions are

		<p>warranted by existing law or by a nonfrivolous argument." Fed. R. Civ. P. 11(b); <i>see Crawford-El v. Britton</i>, 523 U.S. 574, 600 (1998) ("Rule 11 . . . authorizes sanctions for the filing of papers that are frivolous, lacking in factual support, or presented for any improper purpose, such as to harass." (cleaned up)). Should the plaintiff continue to file frivolous motions, the Court may "after notice and a reasonable opportunity to respond . . . impose an appropriate sanction" <i>sua sponte</i> for violations of Rule 11(b). Fed. R. Civ. P. 11(c)(1). Under Rule 11, "the Court is permitted to impose monetary sanctions or a pre-filing injunction," among other options. <i>Stankevich v. Kaplan</i>, 156 F. Supp. 3d 86, 97 (D.D.C. 2016).</p> <p>So Ordered by Judge Dabney L. Friedrich on November 30, 2023. (lcldlf2) (Entered: 11/30/2023)</p>
12/27/2023	<u>24</u>	AMENDED COMPLAINT against MICHAEL REGAN filed by BRIAN T. KELLEHER. (Attachments: # <u>1</u> Exhibit)(mg) (Entered: 12/29/2023)
12/27/2023	<u>25</u>	MOTION to Add Defendant by BRIAN T. KELLEHER. (Attachments: # <u>1</u> Exhibit)(mg) (Entered: 12/29/2023)
12/27/2023	<u>26</u>	MOTION for Order to Show Cause by BRIAN T. KELLEHER. (mg) (Entered: 12/29/2023)
12/27/2023	<u>27</u>	MOTION for Order by BRIAN T. KELLEHER. (mg) (Entered: 12/29/2023)
01/03/2024	<u>28</u>	Unopposed MOTION for Extension of Time to <i>Respond to Third Amended Complaint and Miscellaneous Motions</i> by MICHAEL REGAN. (Attachments: # <u>1</u> Text of Proposed Order)(Higgins, Elliot) (Entered: 01/03/2024)
01/03/2024		MINUTE ORDER granting the defendant's <u>28</u> Unopposed Motion for Extension of Time to Respond to Third Amended Complaint and Miscellaneous Motions. The defendant shall file his response to the plaintiff's <u>24</u> Third Amended Complaint and <u>25</u> , <u>26</u> , <u>27</u> motions on or before February 12, 2024. The Clerk of Court is directed to mail a copy of this Order to the plaintiff's address of record. So Ordered by Judge Dabney L. Friedrich on January 3, 2024. (lcldlf2) (Entered: 01/03/2024)
01/03/2024		Set/Reset Deadlines: Responses due by 2/12/2024 (zjch,) (Entered: 01/04/2024)
01/24/2024	<u>29</u>	MOTION for Order to Show Cause by BRIAN T. KELLEHER. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit)(mg) (Entered: 01/26/2024)
01/29/2024	<u>30</u>	MOTION to Amend/Correct <u>24</u> Amended Complaint by BRIAN T. KELLEHER. (Attachments: # <u>1</u> complaint, # <u>2</u> Exhibit, # <u>3</u> cover letter)(zdp) (Entered: 02/01/2024)
01/29/2024	<u>31</u>	ERRATA by BRIAN T. KELLEHER re <u>30</u> Motion to Amend/Correct. (Attachments: # <u>1</u> Exhibit)(mg) (Entered: 02/01/2024)
02/12/2024	<u>32</u>	MOTION to Dismiss by MICHAEL REGAN. (Attachments: # <u>1</u> Text of Proposed Order)(Higgins, Elliot) (Entered: 02/12/2024)
02/12/2024		MINUTE ORDER. Pursuant to <i>Fox v. Strickland</i> , 837 F.2d 507 (D.C. Cir. 1988), the plaintiff is advised that failure to respond to the defendants' pending <u>32</u> Motion to Dismiss by February 26, 2024, may result in the Court (1) treating the motion as conceded; (2) ruling on the defendants' motion based on the defendants' arguments alone; or (3) dismissing the plaintiff's claims for failure to prosecute. Accordingly, it is ORDERED that the plaintiff shall file a response to the defendants' <u>32</u> Motion to Dismiss, or seek an extension of time to do so, on or before February 26, 2024, or the

		Court will dismiss this case for failure to prosecute. The Clerk of Court is directed to mail a copy of this Minute Order to the plaintiff's address of record. So Ordered by Judge Dabney L. Friedrich on February 12, 2024. (lcldf2) (Entered: 02/12/2024)
02/12/2024	<u>33</u>	Memorandum in opposition to re <u>26</u> Motion for Order to Show Cause, <u>27</u> Motion for Order, <u>29</u> Motion for Order to Show Cause, <u>30</u> Motion to Amend/Correct, <u>25</u> Motion for Miscellaneous Relief filed by MICHAEL REGAN. (See docket entry <u>32</u> to view document). (mg) (Entered: 02/13/2024)
02/23/2024	<u>34</u>	Memorandum in opposition to re <u>32</u> Motion to Dismiss filed by BRIAN T. KELLEHER. (Attachments: # <u>1</u> Exhibit)(mg) (Entered: 03/01/2024)
03/08/2024	<u>35</u>	REPLY to opposition to motion re <u>32</u> MOTION to Dismiss filed by MICHAEL REGAN. (Higgins, Elliot) (Entered: 03/08/2024)
03/15/2024	<u>36</u>	SUPPLEMENTAL MEMORANDUM to re <u>34</u> Memorandum in Opposition filed by BRIAN T. KELLEHER. (mg) . (Entered: 03/18/2024)
04/01/2024	<u>37</u>	NOTICE of Proposed Order by BRIAN T. KELLEHER re <u>29</u> MOTION for Order to Show Cause (mg) (Entered: 04/03/2024)
06/05/2024	<u>38</u>	MOTION to Join Parties by BRIAN T. KELLEHER. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Exhibit)(mg) (Entered: 06/06/2024)
06/13/2024	<u>39</u>	AFFIDAVIT FOR DEFAULT by BRIAN T. KELLEHER. (mg) (Entered: 06/17/2024)
06/28/2024	<u>40</u>	MOTION for Default Judgment as to MICHAEL REGAN by BRIAN T. KELLEHER. (mg) (Entered: 07/01/2024)
07/01/2024		MINUTE ORDER denying the plaintiff's <u>40</u> Motion for Default Judgment. Rule 55 of the Federal Rules of Civil Procedure establishes a "two-step procedure" for obtaining a default judgment. <i>Fanning v. AMF Mech. Corp.</i> , 326 F.R.D. 11, 13 (D.D.C. 2018) (cleaned up). First, "after a defendant 'has failed to plea or otherwise defend,' the plaintiff may request that the Clerk of the Court enter a default against that defendant." <i>Id.</i> (quoting Fed. R. Civ. P. 55(a)). Second, "after default is entered, the plaintiff may move for a default judgment." <i>Id.</i> "By providing for a two-step process, Rule 55 allows the defendant the opportunity to move the court to set aside the default before the court enters default judgment." <i>Int'l Painters & Allied Trades Indus. Pension Fund v. Zak Architectural Metal & Glass, LLC</i> , 635 F. Supp. 2d 21, 23 n.1 (D.D.C. 2009). Based on the public docket, it does not appear that the Clerk of Court has entered a default. What is more, the defendant filed a motion to dismiss, <i>see</i> Dkt. 32, meaning he has not defaulted under Rule 55. The plaintiff's motion thus fails at the first step of the inquiry so will be denied. The Clerk of Court is directed to mail a copy of this order to the plaintiff's address of record. So Ordered by Judge Dabney L. Friedrich on July 1, 2024. (lcldf2) (Entered: 07/01/2024)
08/23/2024	<u>41</u>	ORDER. The plaintiff's <u>24</u> Third Amended Complaint is DISMISSED, and the plaintiff's <u>25</u> Motion to Add Defendant, <u>26</u> Motion for Order to Show Cause, <u>27</u> Motion for Order, <u>29</u> Motion for Order to Show Cause, <u>30</u> Motion to Amend/Correct, and <u>38</u> Motion to Join Parties are DENIED. See text for details. The Clerk of Court is directed to mail a copy of this Order to the plaintiff's address of record. The plaintiff shall file any amended complaint on or before September 23, 2024, or this case will be dismissed. Signed by Judge Dabney L. Friedrich on August 23, 2024. (lcldf3) (lcch) (Entered: 08/23/2024)

08/23/2024		Set/Reset Deadlines: Amended Pleadings due by 9/23/2024. (zjch,) (Entered: 08/27/2024)
09/23/2024	<u>42</u>	MOTION for Summary Judgment by BRIAN T. KELLEHER. (Attachments: # <u>1</u> Part 1, # <u>2</u> Part 2, # <u>3</u> Part 3)(mg) (Entered: 09/24/2024)
09/26/2024	<u>43</u>	ORDER. The plaintiff's <u>42</u> Motion for Summary Judgment is DENIED AS MOOT. See text for details. The Clerk of Court is directed to close this case and mail a copy of this Order to the plaintiff's address of record. Signed by Judge Dabney L. Friedrich on September 26, 2024 (lcdlf3). (Entered: 09/26/2024)
10/08/2024	<u>44</u>	LEAVE TO FILE DENIED– Plaintiff's Letter. This document is unavailable as the Court denied its filing. Pro Se party has been notified by first class mail. "Leave to file DENIED. The case is closed and plaintiff presents no grounds for relief under Rule 60(b)." Signed by Judge Dabney L. Friedrich on 10/8/2024. (mg) (Entered: 10/09/2024)
10/22/2024	<u>45</u>	NOTICE OF APPEAL TO DC CIRCUIT COURT as to <u>43</u> Order on Motion for Summary Judgment, by BRIAN T. KELLEHER. Fee Status: No Fee Paid. Parties have been notified. (mg) (Entered: 10/24/2024)

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Brian T. Kelleher

Plaintiff

vs.

Civil Action No. 23-cv-01346-DLF

Michael Regan, as EPA Administrator

Defendant

NOTICE OF APPEAL

Notice is hereby given this 15th day of October, 2024, that

Plaintiff Brian T Kelleher

hereby appeals to the United States Court of Appeals for the District of Columbia Circuit from

the judgment of this Court entered on the 26th day of August, 2024

in favor of Defendant Michael Regan

against said Plaintiff Brian Kelleher

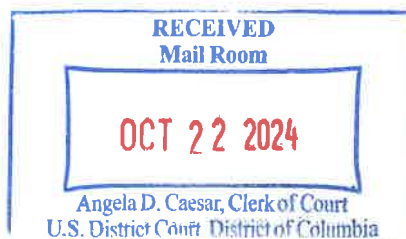

Brian T Kelleher, Pro Se Plaintiff

Attorney or Pro Se Litigant

(Pursuant to Rule 4(a) of the Federal Rules of Appellate Procedure a notice of appeal in a civil action must be filed within 30 days after the date of entry of judgment or 60 days if the United States or officer or agency is a party)

CLERK Please mail copies of the above Notice of Appeal to the following at the addresses indicated:

Brian T Kelleher
4618 Thorntree Ct
Stockton, CA 95210



UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

BRIAN T. KELLEHER,

Plaintiff,

v.

MICHAEL REGAN,

Defendant.

No. 23-cv-01346 (DLF)

ORDER

Before the Court is the defendant's Motion for Summary Judgment, Dkt. 42. For the reasons stated, the Court will DENY the motion as moot.

Brian Kelleher, proceeding pro se, filed his third amended complaint on December 27, 2023, bringing claims against the Environmental Protection Agency for alleged violations related to the agency's treatment of climate change. Amended Complaint, Dkt. 24. On August 23, 2024, the Court dismissed the plaintiff's Third Amended Complaint for failure to comply with Rules 8 and 12 of the Federal Rules of Civil Procedure. Order, at 2, Dkt. 41. The Court instructed the plaintiff to file any amended complaint on or before September 23, 2024, or the case would be dismissed. *Id.*, at 4. On September 23, 2024, instead of filing an amended complaint, the plaintiff filed a Motion for Summary Judgment, Dkt. 42. Because the plaintiff currently has no claim before the Court, his motion for summary judgment is moot. *See Carty v. CVS Pharma., LLC*, 264 F. Supp. 3d 190, 198 n.8 (D.D.C. 2017). Further, the plaintiff has been given three opportunities to file a complaint that complies with the Federal Rules of Civil Procedure. He has failed to do so by the deadline the Court imposed, despite the Court's clear warning that this was his "final opportunity." Order, at 4.

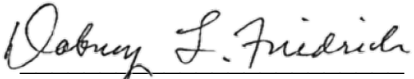
Accordingly, it is

ORDERED that the plaintiff's Motion for Summary Judgment, Dkt. 42, is **DENIED AS MOOT**. This is a final appealable order.

The Clerk of Court is directed to close this case and mail a copy of this Order to the plaintiff's address of record.

SO ORDERED.

September 26, 2024


DABNEY L. FRIEDRICH
United States District Judge